

III. REMARKS

Claims 1- 14, 15-25, 30 and 33 are not unpatentable over Kadyk et al. ("Kadyk") in view of Ginter et al. ("Ginter") or Wantanabe et al. ("Wantanabe") under 35 U.S.C. §103(a).

Claim 1 recites that at least one content component is supplemented with at least one data structure, at least one content packet is formed and the at least one content component supplemented with the at least one data structure is attached thereto.

Claim 1 also recites that the content packet is stored loaded in a "wireless communication device". These features are not disclosed or suggested by the combination of references. Kadyk relates to error correction on a mobile device. Kadyk discloses that first and second instances of a message are received over a wireless connection and it is determined whether the first and second instances of the message contain an error. If both instances contain an error, an error free instance of the message is reconstructed from the two erroneous instances by merging portions of the first and second instances. Nothing here discloses or suggests the supplementing of at least one content component with at least one data structure or forming a content packet as is claimed by Applicant.

Kadyk only discloses that content is converted by a protocol generator into a desired form, according to the transmission protocol implemented by the system. (See, for example, col. 8, lines 53 to 67, and specifically lines 54 to 56.) This is not the same as what is recited in the claims by Applicant and no support is provided in the Office action with the exception of some general statements as to the apparent or interpreted scope

of the cited references. However, it is respectfully maintained that the specific features of Applicant's invention, as recited in the claims, are not disclosed or suggested by the combination of references.

Ginter does not overcome the above-noted deficiencies of Kadyk. Ginter relates to systems and methods for secure transaction management and electronic rights protection. The electronic appliances according to the invention of Ginter help to ensure that information is accessed and used only in an authorized ways, and maintain the integrity, availability, and/or confidentiality of the information. Ginter does not disclose or suggest that that at least one content component is supplemented with at least one data structure, at least one content packet is formed and the at least one content component supplemented with the at least one data structure is attached thereto, or that the content packet is stored loaded in a "wireless communication device". Thus, Ginter does not disclose or suggest each feature of Applicant's invention as claimed and not relevant prior art against Applicant's invention.

Similarly, Watanabe also does not disclose or suggest that at least one content component is supplemented with at least one data structure, at least one content packet is formed and the at least one content component supplemented with the at least one data structure is attached thereto or that the content packet is stored loaded in a "wireless communication device", as is recited by Applicant in the claims. Watanabe discloses communication method and equipment for improving transmission efficiency of a communication system for forming a transmission frame from a plurality of packets to perform communications using the transmission frame and reduce transmission power required to

maintain an error rate. Watanabe is not relevant and only teaches some frame/packet structures, but does not teach the contents comprising at least one content component supplemented with at least one data structure. Thus, Watanabe, either alone or in combination with Kadyk and Ginter, does not disclose or suggest each feature of Applicant's invention as claimed.

Thus, the combination of references cited by the Examiner does not disclose or suggest the invention that is being claimed by Applicant. Applicant's invention is directed to content delivery, whereas Kadyk is a protocol-related invention. In Applicant's invention, the components are combined together (at least one component is supplemented with at least one data structure). There is no such disclosure in any of the references.

In Applicant's invention, a packet is formed from the components. The "at least one content packet is formed" in which the at least one content component supplemented with the at least one data structure are attached. No such disclosure is made in the combination of references.

Thus, each feature of Applicant's invention, as recited in claim 1, is not disclosed or suggested by the combination of references. Therefore, claim 1 together with 15, 30 and 33 which disclose similar subject matter, should be allowable.

Claims 2-14 and 16-25 should be allowable at least by reason of their respective dependencies.

Additionally, there is no motivation as required by 35 U.S.C. §103(a) to combine the reference teachings to achieve Applicant's invention as recited in the claims.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. There must also be a reasonable expectation of success, and the reference(s), when combined, must teach or suggest all of the claim limitations. (See M.P.E.P. §2142). As noted above, the combination of Kadyk, Ginter and Wantanabe does not disclose or suggest each feature of Applicant's invention as claimed.

In this instance, the references do not provided the requisite suggestion or motivation to modify the references as proposed by the Examiner. The Examiner's proposition that Applicants' invention would be obvious as recited in the claims is not supported by the factual contents of Kadyk, Ginter and Wantanabe.

Kadyk relates to error correction on a mobile device. Kadyk discloses that first and second instances of a message are received over a wireless connection. It is determined whether the first and second instances of the message contain an error. If both instances contain an error, an error free instance of the message is reconstructed from the two erroneous instances by merging portions of the first and second instances.

Kadyk only discloses that content is converted by a protocol generator into a desired form, according to the transmission protocol implemented by the system. (See, for example, col. 8, lines 53 to 67, and specifically lines 54 to 56.)

Ginter relates to systems and methods for secure transaction management and electronic rights protection. The electronic appliances according to the invention of Ginter help to ensure

that information is accessed and used only in an authorized ways, and maintain the integrity, availability, and/or confidentiality of the information. Therefore, Ginter is also not relevant prior art for the present application.

Watanabe discloses communication method and equipment for improving transmission efficiency of a communication system for forming a transmission frame from a plurality of packets to perform communications using the transmission frame and reduce transmission power required to maintain an error rate. This publication is also non-relevant and only teaches some frame/packet structures but does not teach the contents comprising at least one content component supplemented with at least one data structure.

Applicant's invention is directed to content delivery, a method for providing "contents" for a wireless communications device.

Thus, the references themselves and/or the knowledge generally available to one of skill in the art does not provide the requisite motivation or suggestion to modify the references as proposed for purposes of 35 U.S.C. §103(a). When "the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference". In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). The Examiner is requested to provide an indication as to where any such teaching, suggestion or motivation appears in the references. Absent such a teaching, it is submitted that a *prima facie* case of obviousness over Kadyk, Ginter and Watanabe under 35 U.S.C. §103(a) is not established.

Even if for arguments sake Kadyk, Ginter and Wantanabe are considered to be relevant as prior art (though the Applicants maintain they are not), it is respectfully submitted that claims 1-14, 15-25, 30 and 33 are not unpatentable over Kadyk, Ginter and Wantanabe under 35 U.S.C. §103(a) because the references have been combined improperly. References may be combined under 35 U.S.C. §103(a) only if the references are analogous art. In this case the cited references are not analogous art. A reference is analogous art if:

- 1) The reference is in the same field of endeavour as the applicant's, or
- 2) The reference is reasonably pertinent to the particular problem with which the applicant was concerned.

Applicant's invention is directed to content delivery. As noted above, Kadyk, Ginter and Wantanabe are directed to protocols. Thus, the references are not analogous art and cannot be properly combined for purposes of 35 U.S.C. §103(a) against Applicant's invention.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

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